

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

SERITAGE SRC FINANCE, LLC,
Plaintiff,

v.

PAINTED TREE SAN ANTONIO, LLC and
PAINTED TREE MARKETPLACE, LLC,
Defendants.

Civil Action No. 5:21-CV-00133-JKP

**JOINT MOTION FOR ENTRY OF JOINT STIPULATED ORDER DISMISSING CASE
WITH PREJUDICE AND ESTABLISHING PROCEDURES FOR
RE-OPENING OF CASE FOR ENTRY OF CONSENT JUDGMENT**

Plaintiff Seritage SRC Finance, LLC (“Seritage”) and Defendants Painted Tree San Antonio, LLC and Painted Tree Marketplace, LLC (the “Painted Tree Entities” and collectively with Seritage, the “Parties”) have reached and entered into a First Amendment to Lease resolving all disputes in this matter. As a part of this First Amendment to Lease, the Parties hereby stipulate to and respectfully request that the Court sign and enter the Joint Stipulated Order Dismissing Case with Prejudice and Establishing Procedures for Re-Opening of Case for Entry of Consent Judgment (the “Proposed Order”) attached hereto as Exhibit A.


Under the terms of the First Amendment to Lease, the Parties have stipulated to a Consent Judgment, but they will only seek its entry in the event of a default of the Lease or First Amendment to Lease within the first three hundred sixty-five (365) days after the Effective Date of the First Amendment to Lease. The Parties believe entry of the Proposed Order will allow the lawsuit to be resolved while at the same time providing assurances to the Court and each side that further litigation and resources will not be required should a breach of the First Amendment to Lease occur. The Parties also desire and consent to the Court retaining jurisdiction over this matter for purposes of enforcing the First Amendment to Lease, should it become necessary.

O ctej Á
Dated: February 6th 2022

/s/ 
Aaron Davidson
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Brian L. King
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**ATTORNEYS FOR PLAINTIFF
SERITAGE SRC FINANCE LLC**

Respectfully Submitted,

/s/ 
Clint Buck
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4630 N. Loop 1604 West, Suite 206
San Antonio, Texas 78249
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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

O ctej Á
This is to certify that on this 6th day of February 2022, a true and correct copy of the
above and foregoing instrument was forwarded via ECF to all parties of record.

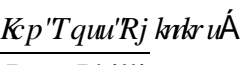
/s/ 
Ian Ross Phillips

Exhibit A

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**JOINT STIPULATED ORDER DISMISSING CASE
WITH PREJUDICE AND ESTABLISHING PROCEDURES FOR
RE-OPENING OF CASE FOR ENTRY OF CONSENT JUDGMENT**

Plaintiff Seritage SRC Finance, LLC (“Seritage”) and Defendants Painted Tree San Antonio, LLC and Painted Tree Marketplace, LLC (the “Painted Tree Entities” and collectively with Seritage, the “Parties”) having entered into a First Amendment to Lease resolving their dispute and having stipulated to the entry of this Order; and the Court, after having been made aware of the Parties’ desire to settle this matter and the First Amendment to Lease:

IT IS HEREBY ORDERED that this case be dismissed with prejudice and without any award of costs (except as specified by the Parties’ First Amendment to Lease) and that this case be administratively closed.

IT IS FURTHER ORDERED that upon the occurrence of a default under the First Amendment to Lease, Seritage may file with this Court and shall serve upon the Painted Tree Entities (a) an Affidavit of Default, and (b) a Notice of Reopening Case. Seritage shall further provide notice to the Painted Tree Entities of any hearing, motion, or application to enter the Stipulation and Consent Order so that the Painted Tree entities shall have the opportunity to respond to any allegations of default made by Seritage.

This Court retains jurisdiction over this matter for the purpose of enforcing the First Amendment to Lease, executed between the Parties, should enforcement become necessary.

SO ORDERED, this day of ~~February~~ ^{O ctej Á} 2022.


JASON PULLIAM
UNITED STATES DISTRICT JUDGE

O ctej Á
Dated: ~~February 6~~ ^Á, 2022

/s/ 
Aaron Davidson
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